

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LISA BLACKWELL, on behalf of herself and all others similarly situated,) Case No. C-08-00674-EMC
Plaintiff,)
vs.) **STIPULATION FOR EXTENSION OF
THE HERSHEY COMPANY AND MARS,
INC. TO ANSWER, MOVE, OR
OTHERWISE RESPOND TO COMPLAINT**
THE HERSHEY COMPANY; HERSHEY)
CANADA INC.; MARS, INC.;) **AND [PROPOSED ORDER]**
MASTERFOODS USA; MARS CANADA INC.;)
NESTLE S.A.; NESTLE USA; NESTLE)
CANADA INC.; and ITWAL LTD.,)
Defendant.)

)

Defendant Nestlé USA, by counsel, pursuant to Local Rule 6-1(a), hereby files this Stipulation for Extension of Time for Defendant Nestlé USA, The Hershey Company, and Mars, Inc. (collectively, “Defendants”) to Answer, Move, or Otherwise Respond to Plaintiff Lisa Blackwell’s (“Plaintiff”) Complaint (the “Stipulation”), and states as follows:

1 WHEREAS Plaintiff has filed a Complaint in the above-captioned case on or about January 28,
 2 2008;

3 WHEREAS Plaintiff alleges price fixing of chocolate;

4
 5 WHEREAS at least fifty-seven complaints have been filed to date in federal district courts
 6 throughout the United States by plaintiffs purporting to bring class-actions on behalf of direct and
 7 indirect purchasers alleging antitrust violations by manufacturers, distributors, and sellers of Chocolate
 8 (collectively, the “Chocolate Cases”);

9
 10 WHEREAS several motions are pending before the Judicial Panel on Multidistrict Litigation
 11 (the “Panel”) to transfer the Chocolate Cases for coordinated and consolidated pretrial proceedings
 12 pursuant to 28 U.S.C. § 1407 (the “MDL Motion”);

13 WHEREAS Plaintiff anticipates the possibility of a Consolidated Amended Complaint in the
 14 Chocolate Cases after an Order on the MDL Motion is issued by the Panel and the Chocolate CASES
 15 are assigned to a transferee court (the “MDL Order”);

16 WHEREAS Plaintiff and Defendants (the “Parties”) agree that an orderly schedule for any
 17 response to the pleadings in the Chocolate Cases, including the Complaint, would be more efficient for
 18 the Parties and for the Court;

19
 20 PURSUANT TO LOCAL RULE 6-1(a), THE PARTIES, BY COUNSEL, HEREBY
 21 STIPULATE AS FOLLOWS:

22
 23 1. The time for Defendants to answer, move, or otherwise respond to the Complaint shall be
 24 extended until the earlier of the following dates: (1) forty-five days after the filing of a
 25 Consolidated Amended Complaint in the Chocolate Cases; or (2) forty-five days after Plaintiff’s
 26 written notice to Defendants that Plaintiff does not intend to file a Consolidated Amended
 27 Complaint (the earlier of those two dates is defined as the “Response Date”); *provided,*
 28 *however,* that in the event that a Defendant should agree or be ordered to answer, move, or

1 otherwise respond in any Chocolate Case prior to the Response Date, then that Defendant shall
2 respond to the Complaint by that earlier date.

3

4 2. To the extent not already served, defense counsel identified below shall waive and accept
5 service of the summons and the Complaint, including any amended or consolidated Complaint,
6 on behalf of the domestic entities that they represent; *provided, however*, that by entering into
7 this Stipulation, Defendants do not waive any other defenses including, but not limited to, the
8 defense of lack of personal or subject matter jurisdiction, or improper venue, or service of an
9 improper entity, except for objections based on a defect in the summons or in the service of a
10 summons.

11

12 3. Plaintiff agrees not to seek discovery from Defendants until after the MDL Order and the
13 transferee district enters a case management order (“CMO”); *provided, however*, that in the
14 event that a Defendant should agree or be ordered to provide discovery in any Chocolate Case
15 before such CMO, then that Defendant will simultaneously provide the same discovery to
16 Plaintiff.

17

18 4. The provisions of this Stipulation are available, without further stipulation with counsel for
19 Plaintiff, to all Defendants who notify Plaintiff in writing of their intention to join this
20 Stipulation.

21

22 IT IS SO STIPULATED.

23

24 Based on the above Stipulation, Plaintiff requests that the Court enter the proposed Order
25 attached hereto.

26

27 / / /

28 / / /

1 Dated: March 5, 2008

Respectfully submitted,

2 HOWREY LLP

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17 **Attorneys for Defendant Nestlé USA**

18 Dated: March 5, 2008

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29 **Counsel for Defendant The Hershey Company**

30 Dated: March 5, 2008

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Dated: March 5, 2008

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Counsel for Plaintiff Lisa Blackwell

PURSUANT TO THE STIPULATION ATTACHED HERETO, IT IS SO ORDERED.

Dated:

Honorable Edward M. Chen

General Order 45 Attestation

I, Karin Kramer, am the ECF User whose ID and password are being used to file this
Stipulation For Extension Of Time For Defendants To Answer, Move, Or Otherwise Respond to
Complaint. In compliance with General Order 45, I hereby attest that Counsel for Plaintiff Lisa
Blackwell, and Counsel for Defendants The Hershey Company, and Mars, Inc., have concurred in this
filing.